

3732



PATENT

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James Thomas

T-H-703
#7 Election

Appl No. : 10/036,235
Applicant : James Thomas
Filed : December 27, 2001
Title : VERTEBRAL ALIGNMENT SYSTEM

TC/A.U. : 3732
Examiner : Eduardo C. Robert

Docket No. : 45774/TJD/T469
Customer No. : 23363

Confirmation No. 3357

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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Post Office Box 7068
Pasadena, CA 91109-7068
October 30, 2003

Commissioner:

In the Office Action mailed September 30, 2003, the Examiner required restriction to one of two inventions, namely, claims 1 to 30, 32 and 33, drawn to a vertebral alignment assembly/fixation system, and claims 31 and 34, drawn to a vertebral alignment/fixation method. In accordance with this requirement, Applicant elects the vertebral alignment assembly/fixation system recited in claims 1 to 30, 32 and 33.

In addition, the Examiner required restriction to one of five species of the invention, namely, Species I, depicted in Figures 1a to 1c and 2a to 2d, Species II, depicted in Figures 3a to 3d, Species III, depicted in Figures 4a to 4d, Species IV, depicted in Figures 5a to 5d, and Species V, depicted in Figures 6a to 6d. In accordance with this requirement, Applicant elects Species IV, depicted in Figures 5a to 5d for purposes of further

Appln No. 10/036,235

Amdt date October 30, 2003

Reply to Office action of September 30, 2003

prosecuting this patent application. The claims readable on this species include 1 to 4, 7, 8, 10, 11, 13 to 17, 19, 20, 24, 25, 27 to 30 and 32.

Claims 7 and 24 recite that the elongated portion of the alignment rod is threaded to receive a threaded attachment. Claims 8 and 25 recite that the threaded attachment is either a T-type handle or a screwdriver-type handle. Although Figures 5a to 5d do not depict a threaded elongated portion of the alignment rod or a handle, the Detailed Description, beginning on page 6, line 33, states that the alignment rod, depicted in Figures 1c, 2b, 3a, 4b, 5b and 6b, may be threaded to receive the handle. Therefore, claims 7, 8, 24 and 25 are readable on Species IV, as well as all other Species, even though Figures 5a to 5d do not depict a threaded elongated portion of the alignment rod and a handle attached thereto.

I don't agree

Notwithstanding this election, Applicant maintains that generic claims exist reading on all of the Species listed above. Specifically, claims 1 to 3, 7, 8, 11, 13, 14, 16, 17, 20, 24, 25, 27 to 30 and 32 read on all Species, claims 4 and 10 read on Species I to IV, claims 21 and 26 read on Species I and II, claim 9 reads on Species I, II and V, and claim 19 reads on Species I, II, IV and V.

Respectfully submitted,

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TJD/LES/ldb

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